

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re BARBARA REBECCA EINSET,

Debtor,

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PHILIP R. HERCIK, JR.,

Appellant,

File No. 1:09-CV-324

v.

HON. ROBERT HOLMES BELL

STEPHEN LANGELAND, Trustee,

Appellee.

_____ /

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Appellant Phillip R. Hercik, Jr.'s motion for reconsideration of this Court's December 4, 2009, memorandum opinion and order affirming the bankruptcy court's orders confirming the sale of real estate and denying stay on appeal, and dismissing the appeal. (Dkt. No. 25, Mem. Op. & Order; Dkt. No. 28, Mot. for Recons.)

One who moves for reconsideration must "not only demonstrate a palpable defect by which the Court and the parties have been misled, but [must] also show that a different disposition of the case must result from a correction thereof." W.D. Mich. LCivR 7.4(a). Moreover, "[a]s this Court routinely has held, a party may not use a motion for reconsideration to raise new arguments that could have been brought before." *ITT Indus.*,

Inc. v. BorgWarner, Inc., No. 1:05-CV-674, 2006 WL 2811310, at *3 (W.D. Mich. Sept. 28, 2006); *see also Sault Ste. Marie Tribe of Chippewa Indians v. Engler*, 146 F.3d 357, 374 (6th Cir. 1998) (discussing the similar standard under Rule 59(e) and stating that a party is not permitted to raise new legal arguments on a motion for reconsideration that could have been raised earlier).

Appellant's motion for reconsideration is largely a reprise of the arguments already considered and rejected by this Court. Appellant has not shown that the Court's prior disposition of these arguments suffered from a palpable defect. Appellant does raise one new argument. Appellant contends that there was no order confirming sale because the purchaser was not correctly identified in the bankruptcy court's order. The scrivener's affidavit which corrected the name of the purchaser from "Wolverine Leases, LLC" to "Wolverine Hunting Leases, LLC" is dated April 21, 2009. Appellant has not shown why he could not have raised this argument prior to the disposition of his appeal. In addition, even if this argument were properly before this Court, the argument lacks merit because Appellant has not shown that the misidentification of the purchaser was misleading, confusing, or ambiguous, or that it had any impact on the validity of the sale. Accordingly,

IT IS HEREBY ORDERED that Appellant Phillip R. Hercik, Jr.'s motion for reconsideration (Dkt. No. 28) is **DENIED**.

Dated: January 21, 2010

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE